

HOUSE AMENDMENTS TO HOUSE BILL 3082

By COMMITTEE ON AGRICULTURE AND NATURAL RESOURCES

May 18

1 On page 1 of the printed bill, line 2, after “additives” insert “; and appropriating money”.

2 Delete lines 4 through 30 and delete page 2 and insert:

3 **“SECTION 1. As used in sections 1 to 6 of this 2005 Act:**

4 **“(1) ‘Anhydrous ammonia’:**

5 **“(a) Means a liquid or gaseous inorganic compound that is formed by the chemical com-**
6 **ination of nitrogen and hydrogen in the molar proportion of one part nitrogen to three parts**
7 **hydrogen.**

8 **“(b) Does not mean ammonium hydroxide.**

9 **“(2) ‘Distributor’ means a person that imports, consigns, sells, offers for sale, barter,**
10 **exchanges or otherwise facilitates the supply of anhydrous ammonia to a user in this state.**

11 **“(3) ‘Nontoxic dye’ means a biodegradable, clear liquid product certified under section 3**
12 **of this 2005 Act that causes staining when exposed to air.**

13 **“(4) ‘Other approved additive’ means a product certified under section 3 of this 2005 Act**
14 **other than a nontoxic dye that, when put in tanks containing anhydrous ammonia, renders**
15 **the anhydrous ammonia nonreactive, unusable or undesirable for use as a precursor to the**
16 **manufacture of methamphetamine.**

17 **“(5) ‘User’ means a person who applies anhydrous ammonia as a plant nutrient in the**
18 **course of engaging in agricultural activity in this state.**

19 **“SECTION 2. (1) The Legislative Assembly finds that:**

20 **“(a) Anhydrous ammonia is lawfully used in crop production as a high-nitrogen fertilizer,**
21 **but also is used in the unlawful manufacture of methamphetamine.**

22 **“(b) Persons who unlawfully manufacture methamphetamine often unlawfully take**
23 **anhydrous ammonia from distributors or users.**

24 **“(c) The use of additives to anhydrous ammonia that can render the anhydrous ammonia**
25 **chemically inert or undesirable as a precursor to the manufacture of methamphetamine**
26 **would be useful in the fight against the unlawful manufacture and use of methamphetamine.**

27 **“(d) The use of additives to anhydrous ammonia that include nontoxic dyes or other like**
28 **substances that cause a stain on persons and equipment that come in contact with the**
29 **anhydrous ammonia would be useful in the fight against the unlawful manufacture and use**
30 **of methamphetamine.**

31 **“(2) The purpose of sections 1 to 6 of this 2005 Act is to decrease the unlawful manufac-**
32 **ture and use of methamphetamine by encouraging distributors and users to add a nontoxic**
33 **dye or other approved additive to anhydrous ammonia used as a plant nutrient.**

34 **“SECTION 3. (1) The State Department of Agriculture shall administer and enforce a**
35 **program for the issuance of grants by the department to reimburse distributors and users**

1 of anhydrous ammonia for the cost of nontoxic dye or other approved additives that, for the
2 purpose of deterring theft of the anhydrous ammonia by manufacturers of methamphet-
3 amine, are added by the distributors or users to anhydrous ammonia used as a plant nutri-
4 ent.

5 “(2) A grant may not exceed the actual cost of the nontoxic dye or other approved addi-
6 tive to the grantee distributor or user.

7 “(3) A distributor that accepts a grant under this section may not directly or indirectly
8 charge a user for the cost of the nontoxic dye or other approved additive for which the dis-
9 tributor received the grant.

10 “(4) The State Department of Agriculture, by rule and in consultation with the Depart-
11 ment of State Police, shall certify each brand of nontoxic dye or other additive for which an
12 eligible distributor or user adding the dye or other additive to anhydrous ammonia may re-
13 ceive a grant under this section.

14 “(5) In accordance with applicable provisions of ORS chapter 183, the State Department
15 of Agriculture shall adopt rules for the administration of this section and section 4 of this
16 2005 Act. The rules shall include, but need not be limited to, grant application procedures
17 and grant eligibility criteria for distributors and users. In adopting distributor and user el-
18 igibility criteria, the State Department of Agriculture shall consult with the Anhydrous
19 Ammonia Additive Review Committee established under section 4 of this 2005 Act.

20 “SECTION 4. (1) The Director of Agriculture, in consultation with the Superintendent
21 of State Police, shall appoint an Anhydrous Ammonia Additive Review Committee consisting
22 of not fewer than six members. The term of a member is four years, but a member serves
23 at the pleasure of the director.

24 “(2) Members of the committee are not entitled to compensation, but in the discretion
25 of the director may be reimbursed from funds available to the State Department of Agricul-
26 ture for actual and necessary travel and other expenses incurred by them in the performance
27 of their official duties in the manner and amount provided in ORS 292.495.

28 “(3) The members of the committee shall include at least one representative from each
29 of the following:

30 “(a) The Department of State Police.

31 “(b) The State Department of Agriculture.

32 “(c) Anhydrous ammonia fertilizer manufacturers.

33 “(d) The Oregon State University Extension Service.

34 “(e) Retail distributors.

35 “(f) Users who are growers of agricultural commodities.

36 “(4) The committee:

37 “(a) May review all relevant scientific and economic data on nontoxic dyes or other ad-
38 ditives for anhydrous ammonia that are submitted for certification by the State Department
39 of Agriculture under section 3 of this 2005 Act and shall, at a minimum, review scientifically
40 valid data for each submitted dye or other additive regarding:

41 “(A) Impact on crop yield;

42 “(B) Specific food crop residue analysis; and

43 “(C) Impact on the environment.

44 “(b) May issue recommendations to the director regarding whether a nontoxic dye or
45 other additive to anhydrous ammonia should be certified by the State Department of Agri-

1 culture under section 3 of this 2005 Act.

2 **“SECTION 5.** A lawful distributor or user of anhydrous ammonia to which a nontoxic dye
3 or other approved additive is added is immune from liability under ORS chapter 465 for any
4 environmental contamination caused by that nontoxic dye or other approved additive if the
5 contamination results from an agricultural application of anhydrous ammonia as a plant
6 nutrient.

7 **“SECTION 6.** A lawful distributor or user who adds a nontoxic dye or other approved
8 additive to anhydrous ammonia fertilizer and a lawful user who purchases anhydrous am-
9 monia to which a nontoxic dye or other approved additive has been added are immune from
10 liability for personal injury, death or property damage caused by the anhydrous ammonia, dye
11 or additive and resulting from a theft or attempted theft of the anhydrous ammonia or from
12 the unlawful obtaining, use or attempted obtaining or use of the anhydrous ammonia. The
13 immunity conferred by this section applies against all persons suffering personal injury,
14 death or property damage, without regard to whether the person was involved in the theft
15 or attempted theft or in unlawfully obtaining, using or attempting to obtain or use the
16 anhydrous ammonia.

17 **“SECTION 7.** (1) Section 3 of this 2005 Act applies to the reimbursement for the cost of
18 nontoxic dye or another approved additive added to anhydrous ammonia on or after the date
19 the nontoxic dye or other approved additive is certified by the State Department of Agricul-
20 ture.

21 **“(2)** Section 5 of this 2005 Act applies to environmental contamination from events oc-
22 ccurring on or after the effective date of this 2005 Act.

23 **“(3)** Section 6 of this 2005 Act applies to personal injury, death or property damage oc-
24 ccurring on or after the effective date of this 2005 Act.

25 **“SECTION 8.** (1) Sections 1 to 6 of this 2005 Act are repealed.

26 **“(2)** The repeal of sections 5 and 6 of this 2005 Act by subsection (1) of this section does
27 not terminate any immunity of a distributor or user from liability for environmental con-
28 tamination, personal injury, death or property damage resulting from the distribution, use
29 or storage, prior to the repeal of sections 5 and 6 of this 2005 Act, of anhydrous ammonia
30 by the distributor or user.

31 **“SECTION 9.** Section 8 of this 2005 Act becomes operative June 30, 2014.

32 **“SECTION 10.** In addition to and not in lieu of any other appropriation, there is appro-
33 priated to the State Department of Agriculture, for the biennium beginning July 1, 2005, out
34 of the General Fund, the amount of \$150,000, which may be expended for carrying out
35 sections 3 and 4 of this 2005 Act.”.